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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, JULIAN  
SANTIAGO, and SUSAN LYNN HARVEY,  
individually and on behalf of all  
others similarly situated.

## Plaintiffs.

VS

GOOGLE LLC.

Defendant.

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Case No.: 3:20-cv-04688-RS

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
PERMANENT INJUNCTION AND  
DISGORGEMENT OF PROFITS**

Judge: Hon. Richard Seeborg  
Trial Date: August 18, 2025

## [PROPOSED] ORDER

2 This is a privacy class action about Google’s allegedly unlawful collection, storage, and  
3 use of app activity involving third-party apps from Plaintiffs and class members whose  
4 Supplemental Web & App-Activity (“sWAA”) toggle was turned off. After certifying this case  
5 for class treatment under Rules 23(b)(2) and 23(b)(3), this Court held a jury trial in August and  
6 September 2025. The jury found Google liable on Plaintiffs’ and class members’ invasion of  
7 privacy and intrusion upon seclusion claims. Dkt. 670 at 1. The jury awarded \$247,154,157 to  
8 Class 1 (the Android Class) and \$178,497,790 to Class 2 (the Non-Android Class) for a total of  
9 over \$425 million in monetary damages. *Id.* at 2.

10 Plaintiffs now move for a permanent injunction and disgorgement of Google's net profits  
11 attributable to its wrongful conduct during the class period. The motion is GRANTED.

## 12 || I. Permanent Injunction

13 Plaintiffs ask the Court to (1) enjoin Google from in the future collecting and saving  
14 sWAA-off data; (2) require Google to delete the sWAA-off data it has already collected;  
15 (3) require Google to destroy the algorithms, models, and services created or modified using  
16 sWAA-off data; and (4) appoint an independent third-party to monitor and ensure Google's  
17 compliance with the injunction. The requested permanent injunction is GRANTED.

18 A plaintiff seeking a permanent injunction “must demonstrate: (1) that it has suffered an  
19 irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate  
20 to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff  
21 and defendant, a remedy in equity is warranted; and (4) that the public interest would not be  
22 disserved by a permanent injunction.” *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391  
23 (2006).

24 All four *eBay* factors support the entry of the permanent injunction. Plaintiffs and class  
25 members have suffered irreparable harms including, but not limited to, violations of their  
26 constitutional and privacy rights. *Index Newspapers LLC v. United States Marshals Serv.*, 977  
27 F.3d 817, 837 (9th Cir. 2020); *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1036, 1045

1 (9th Cir. 2012). The deprivation of Plaintiffs' and class members' constitutional right to privacy  
 2 cannot be remedied by monetary damages because Google agreed, and this Court already held,  
 3 that Plaintiffs may only seek injunctive relief on that claim for themselves and class members.  
 4 Dkt. 666 at 25. The jury's award of monetary damages on Plaintiffs' and class members' intrusion  
 5 upon seclusion claim does not adequately remedy Plaintiffs' and class members' injury because  
 6 the loss of privacy is difficult to quantify. *United States v. Miami Univ.*, 294 F.3d 797, 819 (6th  
 7 Cir. 2002). Moreover, the fact that Google's collection and use of sWAA-off data is ongoing  
 8 further demonstrates that monetary damages are inadequate. *Facebook, Inc. v. Power Ventures,*  
 9 *Inc.*, 252 F. Supp. 3d 765, 783 (N.D. Cal. 2017), *aff'd*, 749 F. App'x 557 (9th Cir. 2019).  
 10 Requiring Google to comply with the law is no undue hardship. *Goorin Bros. v. GoldStarHat*  
 11 *LLC*, 2025 WL 2458868, at \*6 (N.D. Cal. Aug. 26, 2025). Indeed, public policy strongly favors  
 12 preventing Google from further perpetuating its unconstitutional and unlawful activity.  
 13 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

14 The requested injunctive relief is appropriately tailored. Enjoining Google from  
 15 collecting and saving sWAA-off data in the future is necessary because Google will otherwise  
 16 continue to engage in the same unlawful conduct. Data deletion is also necessary to mitigate the  
 17 ongoing risks created by Google storing this data and to prevent Google from making further use  
 18 of previously collected sWAA-off data in other unconsented ways. Similarly, remediation of  
 19 products that Google used sWAA-off data to create or modify is necessary to prevent Google  
 20 from continuing to profit from previously collected sWAA-off data. Finally, the appointment of  
 21 a third-party monitor at Google's expense is appropriate to ensure Google's compliance with this  
 22 Court's injunctive order, and Google shall cover all costs, including any attorneys' fees and costs,  
 23 incurred for enforcing compliance with the injunctive relief.

24 Accordingly, this Court grants Plaintiffs' requested permanent injunction, attached as  
 25 Appendix 1.

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1       **II. Disgorgement of Profits**

2       Plaintiffs also seek disgorgement of the net profits Google earned from its unlawful  
 3 conduct during the class period on behalf of themselves and class members. Plaintiffs calculate  
 4 those net profits to be \$2.36 billion. The requested disgorgement is GRANTED.

5       This Court will independently assess Plaintiffs' request for the equitable remedy of  
 6 disgorgement. The jury's finding that Plaintiffs "are not entitled to disgorgement," Dkt. 670  
 7 (Question 4), is merely advisory and does not bind this Court. This Court instead "make[s] its  
 8 own independent assessment of" Plaintiffs' request for unjust enrichment. *Hansen v. Safeway,*  
 9 *Inc.*, 2010 WL 2593611, at \*3 (N.D. Cal. June 22, 2010). In making that assessment, this Court  
 10 is "bound by all *factual* determinations made by the jury in deciding the [legal] claims." *Miller*  
 11 *v. Fairchild Indus.*, 885 F.2d 498, 507 (9th Cir. 1989) (emphasis added).

12       California law requires an award of disgorgement where a defendant is unjustly enriched  
 13 from consciously violating privacy rights. *See In re Facebook, Inc. Internet Tracking Litig.*, 956  
 14 F.3d 589, 600 (9th Cir. 2020); Restatement (Third) on Restitution and Unjust Enrichment § 44(1).  
 15 The jury's verdict establishes that disgorgement is required here. The jury found that Google  
 16 "intentionally intruded upon the Plaintiffs' objectively reasonable expectation of privacy," and  
 17 that Google's "conduct was highly offensive—that is, a shocking or outrageous breach of social  
 18 norms regarding online data." Dkt. 666 (Instruction No. 20) (emphasis added). Those factual  
 19 findings are binding on this Court. *See Teutscher v. Woodson*, 835 F.3d 936, 944 (9th Cir. 2016).

20       When, as here, a "conscious wrongdoer" is "enriched by misconduct," "the unjust  
 21 enrichment . . . is the net profit attributable to the underlying wrong." *SEC v. Sripetch*, --- F.4th  
 22 ---, 2025 WL 2525848, at \*1 (9th Cir. Sept. 3, 2025). Plaintiffs' burden is to "present evidence  
 23 of the total or gross amount of [Google's] benefit, or a reasonable approximation thereof."  
 24 *Meister v. Mensinger*, 230 Cal. App. 4th 381, 399 (2014). Plaintiffs have met their burden.

25       The reasonable approximation of Google's net profits attributable to the underlying wrong  
 26 is \$2.36 billion. This Court credits Mr. Lasinski's calculation, supported by the record evidence,  
 27 that Google's gross revenues from sWAA-off data were at least \$4.14 billion during the class

1 period: \$2.82 billion from Class 1 and \$1.32 billion from Class 2. This Court also agrees with  
2 Plaintiffs that the most reasonable estimate of Google's incremental costs for App Promo is 25%  
3 of Google's US-based App Promo revenues for 2017-2021 and 23%-25% for 2022-2024. This  
4 results in net profits of \$1,463,670,754 from Class 1 and \$896,913,182 from Class 2. Google  
5 shall disgorge those profits to Plaintiffs and class members.

6 **IT IS SO ORDERED.**

7 Dated: \_\_\_\_\_, 2025

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9 RICHARD SEEBORG  
United States Chief District Judge

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